

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

212.857.8585

DENNIS JACOBS
CHIEF JUDGE

CATHERINE O'HAGAN WOLFE
CLERK OF COURT

Notice to the Bar

Procedure for Setting Briefing Deadlines

January 1, 2010 is the effective date of the Court's new Local Rules. The rules will apply to all cases pending before the Court. This notice addresses the application of the new procedure for setting the brief filing deadlines to pending cases.

Revised LR 31.2 describes the new procedure for setting briefing deadlines for the main briefs. Appellant's reply brief must be filed in compliance with FRAP 31. The automatic 30-day extension is eliminated for all purposes. Motions to extend the time to file a brief will be denied absent a most extraordinary circumstance, such as serious personal illness or death in counsel's immediate family.

Appeals Filed on or before December 31, 2009 with No Issued Scheduling Order. If the case does not require a transcript, or the complete transcript or certified record on appeal has been received, the appellant or petitioner must file a scheduling notification in accordance with revised LR 31.2(a)(1)(A) by January 19, 2010. If the appellant or petitioner is awaiting receipt of the transcript or certified record on appeal, the scheduling notification must be filed no later than 14 days after receipt of the complete transcript or certified record on appeal. For appeals other than agency appeals, if the complete transcript is not received by February 5, 2010, appellant and the court reporter must follow the procedures set forth in LR 11.3. For agency appeals, if the certified record on appeal is not received by February 10, 2010, the agency must notify the Clerk and must update the Clerk in 14-day intervals until the certified record is filed. No later than 14 days after receipt of the certified record, petitioner must file a scheduling notification.

Appeals Filed on or before December 31, 2009 with an Issued Scheduling Order. A party seeking an extension of time to file a brief in a case in which a scheduling order has issued but the transcript has not yet been received should follow the procedure set forth supra. A party seeking an extension when a scheduling order has issued and the complete transcript or certified record on appeal has been received must include in the motion papers all prior extensions granted in the case and state a proposed date for filing the brief. If more than 120 days has already lapsed from the receipt of the complete transcript, certified record, or appellant's brief, counsel is advised to propose a minimal extension. Absent a most extraordinary circumstance, the extension granted upon this motion will be the last. The elimination of the automatic 30-day extension applies to these cases.